

WSR 04-10-082

PREPROPOSAL STATEMENT OF INQUIRY

**DEPARTMENT OF
FISH AND WILDLIFE**

[Filed May 4, 2004, 12:24 p.m.]

Subject of Possible Rule Making: Oiled wildlife care standards: Rehabilitation requirements for birds.

Statutes Authorizing the Agency to Adopt Rules on this Subject: [RCW 90.56.110](#) and 77.12.047.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The success of oiled bird rehabilitation activities is dependent on the standards of care provided. Some of the key elements critical to successful rehabilitation include the availability of adequate quantities and qualities of water, space, air, and specialized supplies. For oiled bird rehabilitation operations to be most successful, these critical components must be available in a timely manner and in quantities commensurate with the numbers of birds oiled. Rules reflecting the necessary thresholds of these critical components are needed. Standards developed in rule that are based on the best available science will provide the guidance necessary to ensure a significantly greater level of success when engaging in oiled bird rehabilitation activities.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Washington Department of Ecology (DOE) is responsible for the state's "Oil and Hazardous Substance Spill Prevention and Response Program," per [chapter 90.56 RCW](#). This statute does not stipulate specific requirements for oiled bird rehabilitation, but the Department of Ecology's contingency plan rules require contingency plan holders to meet the requirements of rules that may be adopted by the Washington Department of Fish and Wildlife (WDFW).

The USFWS has authority to issue federal permits for the rehabilitation of birds, and special permits for taking and rehabilitating oiled birds. The WDFW has included the DOE and the USFWS as stakeholders in this rule-making process.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Interested parties can participate in the decision to adopt the new rule and during the formulation of the proposed rule. WDFW will solicit input by holding a public meeting, a public hearing, and by use of e-mail, voicemail, or other avenues of information dissemination. Three stakeholder workshops have been held prior to the filing of this CR-101. WDFW will be following the standard rule-making process as required by the Administrative Procedure Act and the Regulatory Fairness Act. WDFW is actively soliciting

science-based information which will refute or support proposed bird rehabilitation care standards and will review all information received when developing these standards.

For more information contact Eric Larsen, Oil Spill Section Manager, Washington Department of Fish and Wildlife, Habitat Program, 600 Capitol Way North, Olympia, WA 98501, phone (360) 902-8123, fax (360) 902-8126, larseeml@dfw.wa.gov. Expected proposal filing June 18, 2004.

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